

REMARKS

Claims 1-20 are pending in this application. Claims 1, 16, and 19 are the only independent claims. Claims 1, 16, and 19 have been amended to better claim the invention. Claim 11 has been cancelled to overcome the 35 USC § 112 rejection. Applicants hereby respectfully request reconsideration of the subject application in view of the above amendments and following remarks.

Claims 1-7, 9-12, 14, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurland (US Patent 4,653,482).

Amended independent claim 1 recites a lateralization effect “wherein an **angular orientation of the lateralization member against the supporting member is adjustable to alter said lateralization effect.**” (Emphasis added). Kurland does not teach these required claim features. On page 3 of the Final Office Action, claim 1 has been rejected in view of Fig. 1 of Kurland. However Fig. 1 is merely a traction tray described as a “rigid rectangular sheet of material.”

The elements of Fig. 1 cited in the Final Office Action do no disclose that the lateralization device for providing a lateralization effect “wherein an angular orientation of the lateralization member against the supporting member is adjustable to alter said lateralization effect.” There is no angular movement or rotation of the traction tray cited in the Final Office Action. In Fig. 1 of Kurland only the height of support leg 22 can be adjusted of the elbow post 18 that can be anchored at any point within slot 19. However, it is clear that the limitation of “an angular orientation of the lateralization member against the supporting member is adjustable to alter said lateralization effect” is not disclosed in Kurland because there is no angular distraction or lateralization of the tray or the cited elements in Fig. 1. Therefore, the invention recited in claim 1 patentably distinguishes over Kurland and claim 1 is allowable for at least the reasons discussed above.

Claims 2-15 depend from claim 1 and include all of the limitations found in claim 1 and therefore are allowable for at least the reasons discussed in connection with claim 1. Claims 2-15 further include limitations which, in combination with the limitations of the parent claim are neither disclosed nor suggested in the art of record and therefore claims 2-15 are allowable.

Amended independent claim 19 recites a method of “maintaining the position of the user’s body portion throughout the medical procedure **so that an angular orientation of a lateralization member against a supporting member is adjustable to alter said lateralization effect.**” (Emphasis added). Applicant respectfully submits that Kurland does not teach or suggest this limitation as recited in amended independent claims 19 for at least the reasons discussed above in regards with claim 1. Therefore, Applicant respectfully requests that the rejection against claim 19 be withdrawn and claim 19 allowed.

Claim 20 depends from claim 19 and includes all of the limitations found in claim 19 and therefore is allowable for at least the reasons discussed in connection with claim 19. Claim 20 further includes limitations which, in combination with the limitations of the parent claim are neither disclosed nor suggested in the art of record and therefore claim 20 is allowable.

Claims 8, 13, and 16-18 are rejected under 35 U.S.C § 103(a) as being unpatentable over Kurland in view of Kostich (US Patent 5,623,949). Applicant respectfully traverses this rejection.

Independent claim 16 recites a lateralization effect **“so that the angular orientation of the lateralization member against the supporting member is adjustable to alter said lateralization effect.”** (Emphasis added). The Office Action admits that Kurland fails to disclose the recessed portion is located in an eccentric position on the cylindrical member and has combined Kostich to cure this deficiency. However, Kurland even when combined with Kostich fails to disclose that the lateralization effect is that so that the angular orientation of the lateralization member against the supporting member is adjustable to alter the lateralization effect.

As discussed in connection with claim 1, Fig. 1 of Kurland shows a traction tray described as a “rigid rectangular sheet of material” where there is no angular movement or rotation. Further the Office Action on page 4 has cited device 110 and elements 144 in rejecting claim 16. However, device 110 is for “positioning the patient in an arm-up position or arm-over chest position” for specific operations and does not provide a variable angular distraction and has no “angular orientation of the lateralization member against the supporting member is adjustable to alter the lateralization effect” as recited in amended claim 16. For at least this reason Kurland and Kostich, alone or in combination, do not disclose or render the invention obvious as recited in amended claim 16. Therefore claim 16 is allowable for at least these reasons.

Claims 17-18 depend from claim 16 and include all of the limitations found in claim 16 and therefore are allowable for at least the reasons discussed in connection with claim 16. Claims 17-18 further include limitations which, in combination with the limitations of the parent claim are neither disclosed nor suggested in the art of record and therefore claims 17-18 are allowable.

In view of the above amendment, applicant believes the pending application is in condition for allowance. No fee is believed to be due for this Amendment. Should any fees be required, please charge such fees to Deposit Account No. 50-2215.

Dated: April 24, 2008

Respectfully submitted,

By _____
Charles E. Miller

Registration No.: 24,576
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant